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TAKING VICTIMS AND THEIR ADVOCATES SERIOUSLY:

A Listening *Project*

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*We must have
those core rights*

we keep talking about,
safety first and foremost,
information, choice,
testimony, validation,
and restitution.

Project Background

This report details the activities and outcomes of the Listening Project, a collaboration of professionals active in the victim community and the field of restorative justice. Funding for this project came from a grant provided by the Open Society Institute's Criminal Justice Initiative. The project was housed in the Institute for Justice and Peacebuilding at Eastern Mennonite University from 1999-2002.

The Listening Project was specifically designed to confront the significant deficiencies of restorative justice practice pertaining to victim participation and impacts for victims, their advocates and victim services generally. A core project objective was to collaboratively propose an action plan to create more responsive restorative justice programs and beneficial outcomes for victims. A number of strategies for gathering the input of victims and their advocates, and for facilitating dialogue between victims, victim services and restorative justice personnel were undertaken, divided into two phases.

Phase I of the Listening Project sought to enhance and amplify the voices of victims, victim advocates and victim services. Teams representing victim and restorative justice advocates traveled to seven states during 1999-2000 (Vermont, Ohio, Washington, Texas, Missouri, Wisconsin and Florida) to listen and record the ideas and concerns of victims, victim service workers, and victim advocates regarding victim needs, the victim experience of justice, and impressions of restorative justice in general.² One hundred twenty individuals were involved in these listening sessions across the seven states. The detailed transcripts of these meetings are the basis of significant portions of this report, and selected quotations of participants are featured in the margins.³

Where Phase I of the Listening Project emphasized listening and documentation, Phase II was a structured dialogue between representatives of the listening sites, victims, their advocates, victim services personnel, and restorative justice practitioners. Held over two days in early 2001, the palaver critiqued and amplified preliminary findings of the study, with the twin objectives of identifying major areas of agreement and concern regarding restorative justice, and specifying an agenda for enhancing the victim role and benefits from restorative justice initiatives.

Organization of the Report

The following pages seek to capture the range of opinions and observations expressed in the listening sessions of project personnel with victims, their advocates, and victim service workers during Phase I of the study, as well as the deliberations of the Phase II palaver. A number of data sources have been incorporated here. Prominent among these are the full transcripts of the listening events from which a significant amount of direct feedback about restorative justice has been derived. Additionally, meeting

Restorative justice is a way of thinking and it is something that can be very powerful and impact people in a very positive way, but it is not for everybody. It is not for every victim, it is not for every offender.

facilitators also provided reflections on what they heard and experienced, and these contributions have been incorporated as well. More than seventy-five percent of the participants of the listening events also completed brief surveys to assist with the evaluation of the project, and those additional observations have been included. Finally, detailed notes from the general meeting and dialogue of Phase II have in large measure shaped the presentation in the final sections of the report. This material both clarifies and adds to information gathered during the listening sessions, and proposes the contours of an agenda for restorative justice relative to increasing its responsiveness to concerns of the victim community.

These data provide a comprehensive and generally consistent appraisal of contemporary restorative justice policy and practices, largely from the perspectives of victims, their advocates and victim services.⁴ It is important to note that the very nature of this exercise—explicitly, to appraise and critique—is prone to result in cautious reflection and emphasis of shortcomings. The reader might therefore leave with a somewhat distorted view, perhaps an overly negative view, of the impact of restorative justice on the victim community. While that consequence is certainly unintended and largely unsupported by much of the data, the very nature of this project (again, to appraise and critique) may well leave this impression. No artificial effort was made to balance this likely outcome, such as attempting to elicit more positive feedback regarding restorative justice. While some participants in this project voiced the need for some type of audit of existing restorative justice programs, and indeed this has been articulated as a recommendation, the project itself was not designed for this purpose.

The findings and conclusions of the Listening Project are distributed among seven interrelated sections. *Impressions of Restorative Justice* includes reflections on the definition of the concept, its values, priorities and promises, and expectations for restorative justice in the victim community. *Experiences with Restorative Justice* describes encounters with restorative justice processes, practices and programs. *Impediments and Challenges to Restorative Justice* details difficulties with implementing and operationalizing core values and practices, including reflections on uncertain prospects. *Architecture of Responsive Restorative Justice* considers the fundamental features of good practice, including consistency of policy, objectives, processes and outcomes. *Summary Reflections on Restorative Justice* explores the broader context of concerns with restorative justice policy, practice and potential. The *Working Agenda for Restorative Justice* enumerates a variety of strategies, short and longer term, for increasing the responsiveness and impact of restorative practices. The initiative and responsibility for such strategies are divided between the victim and restorative justice communities. Finally, *A Conclusion, A Beginning*, features five themes that captured the most deliberations among project participants in charting a collaborative way forward.



Impressions of Restorative Justice

There are mixed sentiments about what restorative justice has come to represent. For some, restorative justice promotes a balanced view of crime as an event affecting a number of different people. A justice practice should therefore encourage the direct involvement of these parties, such as promoting needed dialogue between victim and offender. Where the contemporary justice system does not work well for victims and others, restorative justice promotes needed change. Restorative justice acknowledges that crime is personal: adherents of this view often suggest that assisting victims, addressing their needs and helping them through their problems, and allowing and encouraging victims to participate in processes and outcomes that affect them, are primary aims of restorative justice. For some victims, working with offenders has been an essential element of their own healing journey.

But the idea of an offender-oriented restorative justice colors other impressions of its practice. Very often, restorative justice not only reflects offender needs—making amends, and changing and rehabilitating offenders—but is *driven* by such needs. Restorative justice may be offender initiated, and may be oriented to an offender timeline. Such needs and practices may not be compatible with victim needs, however. Where offenders are provided with help to change their lives, but victims are not provided help to deal with their trauma, victims feel betrayed by the offender orientation of restorative justice.

Restorative justice may also promote unrealistic or unreasonable goals. Where restorative justice appears to go hand-in-hand with expectations for reduced offender penalties, victims may perceive restorative justice as a way out for offenders whose primary motivation might be to avoid responsibility or pain. It is often the expectation of restorative justice programs that offenders will offer genuine apologies for what they have done. But where offenders are not sorry for what they have done, victims may feel harmed again for this failure of justice. Similarly, restorative justice appears to imply that victims are in some sense obligated to assist offenders. This distorts the hope of victims to assist themselves through restorative justice processes. Victim participation for the purpose of offender rehabilitation may be at least an unreasonable burden, if not outright objectionable. Ideas that restorative justice is a panacea are immodest, and without merit. Restorative justice is relatively untried and untested—where is the compelling proof that it works?

For some, restorative justice has not captured the central realities of crime and trauma from a victim's point of view. Restorative justice is the current flavor of the month, and while it may be politically astute to promote ideas of “victim involvement” and “victim centered,” these appear to be mere afterthoughts and perhaps manipulations of victims. The definitions of restorative justice are overly broad and confusing, and provide

I think this is one of the best tools

we have had to get offenders to be accountable and to take a good hard look at themselves and their lives, and how crime affects their families, affects the victim and the community...this is the important part of what restorative justice has to be.

There are people in my field

who when they hear the term “restorative justice” they think of a very offender-based system that is not informed by knowledge of victim issues. And that is a lot of the fear about restorative justice.

When I think about it,
**the principles in themselves
have real beauty but I do not
have time to really admire them
because the practice of restora-
tive justice is causing a lot of
turmoil. What attracts me is
that I like broadening the idea
of who gets to be in the picture,
but it really does not happen.**

this open invitation for opportunism. For example, some mediation groups appear to have turned their attention to violent crime largely due to the financial incentives for this type of programming. The “cookie cutter” approach to restorative justice, despite even profound differences in the circumstances from one jurisdiction to another, reveals a real lack of responsiveness to local needs, and a lack of basic political savvy as well.



Experiences with Restorative Justice

The view is widely shared that restorative justice may promote offender diversion, court docket relief, easing of jail and prison crowding, and even justice system respite from demands of victims. However, restorative justice provides little victim relief. While that objective appears to be a very low priority, there is nonetheless significant pressure and even coercion to have victims and victim services join the restorative justice bandwagon. Too often, funding for victim programs hangs in the balance; the “choice” may involve a direct affiliation with restorative justice programming, or the prospect of no programming at all. In the view of some from the victim community, it appears that resources set aside in these times for restorative justice have exceeded, and may have even reduced, resources made available for victim services.

The issue of victim input in restorative justice has unfortunately been limited to consideration of victim participation in a particular conference or process. But victims are routinely excluded from participation in program planning. In some communities, surrogates are used to assume the role of victims on some reconciliation panels. Very often, training about victims, victim trauma and victim needs involves no victims or victim advocates. But regardless, restorative justice personnel are quick to expect or demand that victims become advocates for restorative justice.

Many in the victim community feel that while there is significant advocacy and “talk” about restorative justice, and though it may be enshrined as the new justice policy, there is too little pragmatic action taken, few changes are being made, and lines of authority and responsibility for program development remain obscured. Victim advocates and victim services personnel often have difficulty enlisting restorative justice experts to answer questions, or to assist with training needs. Too often, prominent restorative justice practitioners have waded unsuccessfully into highly visible cases, without proper (and available) consultation and skills, producing in their wake a backlash against restorative justice in the victim community as well as negative results for victims.

With respect to meaningful impact on victim needs, some feel that restorative justice is little different from the justice status quo. Relative to victims, it remains tone deaf to victim aspirations.

We have heard for years that restorative justice is coming, it is coming, it is coming, it is coming, it is going to be here and you better get on board. If you want any influence as to how it is implemented you better get involved now in the planning process. You better start supporting it. You had better stop saying, “no, no, no” because otherwise it will go on without you. It is hard to see how something that is supposed to be good for victims is just going to be delivered whether victims ask for it, or need it, or indicate any desire for it.

I was approached about doing a sort of victim/offender reconciliation thing, and the idea was to get the victim and offender together and it was all on the offender court time-line. It was completely driven by that time-line even though the victim healing time-line is vastly, vastly different. That is not helpful, and is remarkably harmful to the healing process. So something touted as “healing for everybody” turns out to be powerfully damaging.



Impediments and Challenges to Restorative Justice

Sometimes I have a little trouble with just the term “restorative justice.”

It is almost offensive if you or the community thinks that they are going to restore me to where I was before my son was murdered. I hope people do not think that is what it is supposed to be.

Do we ask, “What do victims really want?”?

No, we think that this is going to work so we are just. If we cannot get victims to like us when we first invite them to come, or if we start the initiative and they say “no,” or they come and they raise questions that we are uncomfortable with, we will just continue in our vein and ignore them. What about saying to the victim community, “What are some things we could do to improve the way that victims are treated in the system now? How can we improve accountability to victims, victim rights, victim services?”

A number of assumptions, practices and prospects appear to impede the realization of restorative justice goals. Where restorative justice has come to mean making something go away or bringing something back, the idea of “restoring” for victims falls on its face. Such language, if not the sentiment behind the language, is at least confusing and often offensive to victims. For many in the victim community, one type of programmatic response—face-to-face meetings between victim and offender (mediation)—is synonymous with restorative justice. This narrow conception of restorative justice seemingly *excludes* many victims, where offenders are not identified, or offenders refuse to participate in such a process, or where it is inappropriate for such a meeting between victim and offender to take place at all. The technique of mediation also presumes a “dispute” and a “relationship” between victim and offender, and for many victims, this trivializes the nature of deep harms and the character of their relationship to offenders.

Further, where financial restitution remains the primary objective of mediation practice, it is questionable whether mediation is at all appropriate for personal crimes involving violence. Domestic violence and sexual assault are certainly ill-suited to an intervention with restitution as its centerpiece. Restorative justice presumes to be a rational, contemplative process in response to events (crimes). But are criminal events rational, involving as they might individuals (offenders) whose damaging and violent choices, coupled with drug, alcohol and mental problems defy rationality to begin with? Such circumstances continue to raise fundamental safety concerns about restorative justice processes in the eyes of victims.

Where restorative justice functions as an adjunct or extension of the formal justice system, there are significant questions about who the ‘official’ or ‘real’ victim really is. The needs of those who are harmed by offenders who have not been identified or arrested are going to be ignored. The emphasis of restorative justice on how crime affects the community tends, in the view of some, to again marginalize those immediately affected by crime, distorting and diverting justice responses from victim needs. Not unlike conventional justice programming and policy, restorative justice uses victims to promote and rationalize its agenda. Indeed, the very credibility of restorative justice is thought by its proponents to hinge upon victim involvement. Despite the rhetoric, the experience of the victim community is only too familiar. While victim needs and aspirations are important political fodder for various causes, it is seldom the case that such needs and aspirations materialize in meaningful and sustained victim enfranchisement in justice.

And what of the prospects for restorative justice? In some jurisdictions, where limited and routine victim services represent begrudging

concessions from the formal justice system to begin with, there appears to be no room for the development of restorative options. Without credible evaluation of restorative justice programs, there will continue to be resistance to their blanket implementation and reluctance in the victim community to embrace them. “Turf” disputes, regarding the ownership of restorative justice ideas and programs, will deflect from their impact and potential. In a relatively short period of time, some perceive that restorative justice has become overly professionalized, undermining its professed goals of inclusiveness and accessibility.

People look at victims and advocates and say, “You are supposed to forgive and you will not.” The system is designed around that. Victims forgiving, forgetting and moving on, when in fact *in the life of the victim* that is not happening at all.

A large number of cases are not ever resolved. We have not even touched crime and the number of victims out there—there is no suspect and the person will never be found. How dare we step into issues of restorative justice when the basic needs of those victims cannot be met.



Architecture of Responsive Restorative Justice

Restorative justice has to start with respect.

So much of the system cares that every “i” is dotted and every “t” is crossed for the offender but it certainly does not extend that to victims and so the hurt starts right off at the beginning. And until they can see that victims are really not the bad guys, the justice system will not progress very far.

Victims always in my experience *have been able to articulate* what it is that they need and what they want. Somehow you can help advocate for them, and if they want to have a dialogue, a mediation, a reconciliation, or a time of restoring/repairing with the offender, they can articulate that and take advantage of the opportunities that are already out there. It should come from them, the victim should choose, not the courts.

I think the same people who want to implement this philosophy and program should be the same people that are *supporting victim services at their most basic level*. They should be supporting very basic victim needs.

The victim community offers numerous suggestions for how restorative justice policy and practice might be responsive to its needs and aspirations. These are targeted to key dimensions of restorative justice, including its philosophy, policy and practices, and even to broader social concerns.

There are a number of key assumptions or tenets that should guide restorative justice programming. Victim involvement should be reflected not only in the processes themselves, but the planning and programming of restorative justice should have a distinct victim imprint as well. Restorative justice should be an available option for victims, but it clearly is not suited for every victim, or even for every offender. Under those circumstances when restorative processes are appropriate, and at the direction and initiation of the victim, dialogue directly with the offender should be a possibility. Some victims may choose restorative justice processes to seek levels of closure and peace: these victims should receive adequate information about what these possibilities might entail, and then be given the support to pursue these outcomes. Restorative justice must look well beyond the narrow view of conventional justice regarding who the “real” victim is, to those harms and their victims where no offender is identified, or where an offender refuses to participate in restorative justice processes. Justice for these victims must involve responses that are detached from offender-dependent processes.

Restorative justice must be mindful that victim interests and needs must be clearly articulated and supported before they are presumed to be included with those of offenders and communities in the name of justice. If victim interests and needs are valuable to the articulation of restorative justice, its proponents should have a vested interest in advocating for the support of victims. Over time, those needs and interests will change, and restorative justice must itself be flexible and dynamic in order to remain responsive to victims. Restorative justice has set for itself an ambitious set of goals and objectives. But from the view of the victim community, it is minimally expected that restorative justice will promote healing for those affected by crime, respect and empathy for victims, tolerance, trust and hope among participants in justice, accountability from offenders, and uniformity, fairness and quality in its processes.

On a very practical level, restorative justice programming and processes must be accommodating to victim needs. For example, victims should be provided with complete information about processes and possible outcomes, both positive and negative, as a matter of course. Whenever possible, restorative justice processes should encourage the involvement of advocates and family members of victims (as well as family members of offenders). Processes and outcomes that include restitution must involve

efforts to fairly represent the financial situation of the victim (not only that of the offender) including the predicament and challenges caused by a criminal event. Restorative justice processes must guarantee rights to victims, such as confidentiality, the ability to choose to become involved or to cease involvement, the option of reconsidering an outcome, and the ability to give voice to their own needs and aspirations (in lieu of being sidestepped by surrogate voices, such as prosecution). Under all circumstances, restorative justice processes must provide a safe environment for victims, and its objectives must be premised on offender accountability to victims and victim respect.

Restorative justice might address larger social needs that directly serve the interests of the victim community. For example, restorative justice should be educational in nature, emphasizing literacy on victim trauma not only for offenders, but for the public at large. Education on the impact of crime including the needs of victims, education about offenders and their situations for the victim community, and general education and awareness about restorative justice for justice professionals serve important needs and address glaring deficiencies. It is logical that restorative justice would concern itself particularly with children and their early, formative education regarding issues of respect and accountability. Minimally, the currency and popularity of restorative justice suggests opportunities for forging new coalitions between victim services and justice personnel generally, and for encouraging community support of crime victims.

I want to give up on this version of restorative justice, the one that we have. It gets a bad grade. It is not good. What version would I like? Somehow it would have to include the tough piece of having equal power shared by the victim community. And I mean decision making, money and power, from the start.

In order for restorative justice to even work *there needs to be more education about it ...* my greatest concern is that it is a fad... my greatest fear is that programs are being thrown together without people being educated on victims.



Summary Reflections on Restorative Justice

In theory it seems like *restorative justice would work if everything is equal*. Offender rights have been defined and have been implemented for 200 years. Victim rights are just being defined and they are not implemented. And we have not even started talking about community rights. So until all of those rights are defined, until they are all implemented, the restorative justice “circle” will not work.

If we look at the struggle that we have been going through just in the traditional criminal justice system, if we look at the history of all those struggles, it is more of a question whether restorative justice is going to be a struggle and take forever to just get little bits, little pieces. *Do we get a bone every once in a while?*

Among a variety of participants in this study, including representatives from the victim community and restorative justice personnel, there is an overlay of irony and even skepticism to these deliberations, when the longer view or broader context is taken into consideration, namely, what has been promised versus what has been experienced. These cold and sober realities are essential considerations in developing a comprehensive understanding of restorative justice in this time and place, and for developing an agenda for justice practice that is responsive to victims needs and aspirations.

Much of the feedback from the victim community about their experiences of justice (without regard to what stripe it might be) involve injustice, disrespect, exclusion, lack of empathy, and irrelevance. Victim input often emphasizes on the one hand the failure of conventional justice to respond to personal and severe trauma, while on the other hand seeks to limit restorative justice practices to relatively minor offenses. While many in the victim community are quite leery about the promises and record of restorative justice specifically, they remain skeptical that the conventional system of justice will ever “deliver” for victims. Yet conventional justice participants, while acknowledging that their forays into restorative justice produce little victim impact (as they are offender oriented initiatives) remain quite defensive about what they see as the generally improved availability of victim services over time.

The victim community is itself diverse, with often complicated relations between and among victims, victim advocates and victim services. Restorative justice generally seeks to engage a monolith “victim” that may not exist in the first place. The victim community often questions the pragmatic differences between flavors of justice, relative to victim interests and needs. Victims and their advocates who observe the slow and minimal development of victim services (including the limitations of victim rights) over time often presume that restorative justice will fare no better. Similarly, the poor treatment of victims in conventional justice approaches may well be replicated in restorative justice programming, particularly where restorative justice is a mere adjunct or extension of the conventional system of justice. It follows for some that negative reactions to restorative justice are related to other elements of the bigger picture, such as the incomplete implementation of victim rights, lack of enforcement of such rights, inadequate victim services generally, and the marginality of victims in conventional justice processes.

While “victim input” and “collaboration” are allegedly key ingredients of restorative justice, the precise manner in which these are operationalized remains mysterious. Victims talk, yet no one is listening: such a ritual may be therapeutic for some interests, but certainly not for the victim

community. In the many contexts where promoting or implementing any change in justice practices is a struggle, the needed coalitions and alliances may well be beyond the capacity of restorative justice, itself a fractious collection of interests and personalities.

Some in the victim community wonder aloud if victim involvement in restorative justice is a booby prize, a minor accommodation where full participation in justice, victim rights and enforcement of rights, and a full complement of victim services are unlikely scenarios and outcomes under the conventional justice regime. Further, there is concern for a backlash from restorative justice (against victim services) irrespective of what it does or does not offer victims. If millions of justice dollars are pumped into new initiatives that involve little or no victim involvement, participation and control, might this be interpreted as a lack of victim need, or interest, or competence?

As noted, a brief survey was sent to all participants in the listening sessions in seven states. More than seventy-five percent responded.⁵ Regarding the process of the Listening Project, a considerable majority of respondents agreed that the location of the meeting was comfortable and safe, adequate time was reserved for the meeting, they felt at ease with other participants, the group included those who should have been there, and they had the opportunity to express their views openly and be listened to, including their frustrations with restorative justice. Regarding the outcomes of the meeting, a considerable majority agreed that the event had met their expectations, they were taken seriously by other participants, questions and concerns were addressed by the facilitators, and that the meeting had raised awareness about both restorative justice generally, and victim needs and victim experiences in restorative justice processes. However, beyond the positive appraisal of the process and short-term outcomes of the Listening Project by participants in seven states, the survey data suggests that the perhaps most important conclusion to be drawn concerns the very salience of *listening*.

This is a political process and to assume that it is anything other than that is to make a big mistake. The way it works is that the squeaky wheel gets the grease. The unfortunate consequence of people not willingly seeing what victims need, and people in the justice system not being smart enough to recognize those needs, is that you have to apply political pressure on them and that becomes a role for the victim community. It should not, but that is the reality of the situation. It requires organization . . . but there are real turf battles between different victim service providers and that has to be resolved.

If we spend a lot of dollars and a lot of expertise on restorative justice, will that be used against victims in the future if few victims participate? An ill-conceived restorative justice project or program could have far wider impact than just the failure of that particular program.



Working Agenda for Restorative Justice

The final sections of this report present an overview of a two day, intensive deliberation of the foregoing input of the victim community during listening events in seven states, and proposed agendas or action steps that might be pursued independently or collaboratively by the victim community and restorative justice advocates. These agendas and action steps are only the beginning of a longer conversation that will be needed to work out many crucial details of these proposals, through more discussion and debate.

Reactions to the Input of Listening Events

A relatively wide range of responses characterize the reaction to the summary input of the listening events among the victim community and restorative justice advocates assembled for the Phase II palaver. These included general comments, interests and issues that emerged or were prodded by the input, and efforts to account for (to mitigate or to support) the findings.

In general, there was acknowledgment that input varied among the seven venues where listening events were held. A number of reasons for this seemed probable, including group size and composition, specific backgrounds and direct experiences with restorative justice programming among the states represented (ranging from fairly extensive, to almost none), how tightly or loosely the specific session was organized, who comprised the listening team, and whether the listening event was coupled to a larger dialogue or discussion (such as a listening event held in conjunction with a conference or statewide meeting). Clearly, restorative justice was unfamiliar to some participants in the listening sessions, and they were responding to either what they had heard about restorative justice generally, or the local reputation of restorative justice programs and services. It was noted that the listening events, in addition to providing input for restorative justice personnel on the needs and experiences of the victim community, also functioned for some participants as learning events about restorative justice: this appears to have been variable among the sites as well.

In response to the findings, there was additional discussion of the very idea of restorative justice. Restorative justice itself was assumed to be a monolith, undifferentiated in its philosophy and practice. It was clear, however, that there was not a common, working definition of restorative justice, nor a shared understanding (or agreement) about its benefits. Restorative justice, it was cautioned, does not reflect a systemic approach to victim communities of interest or to victim services. Training in restorative justice is not uniform.

The findings, some thought, paint a false dichotomy between advocates of restorative justice and advocates for victims, in that some of the

We hear offenders who want to get into restorative justice because they see it as an end run around accountability. How often do you hear of offenders who are interested in participating in restorative justice initiatives who do not see it as a way of *shortening time or shortening accountability?*

Some of these programs have been implemented without ever consulting a victim organizations...there are court-based programs and correctional-based programs where they developed the program and the protocols and the standards, and they have done the training and they have never brought in a victim advocacy organization.

latter are themselves passionate about restorative justice. Further, many victim advocates are hopeful and highly motivated to explore choices for victims. Among victim advocates, some feel the conventional justice system is unlikely to be any more responsive to victim needs than it is presently, and restorative justice is worth serious consideration for this reason alone. Other advocates feel the victim movement has made significant strides already, and restorative justice is a distraction or nuisance.

The presentation of input from the listening sessions during the two day palaver was itself a flash point for discussion and debate. Some were concerned that the summary was too negative in its substance and tone, feeling that a more positive and hopeful spin on restorative justice would be more appropriate. Some recalled specific dialogue leaning to a more positive tone that did not seem to be reflected in the summary overview. Others argued that the depiction of victim input relative to restorative justice was accurate, confirming hunches and experiences, and truthful (albeit an uncomfortable truth for restorative justice advocates). There was concern as well about the lack of deliberate efforts to differentiate among distinct interests and needs in the victim community vis-à-vis restorative justice. Mentioned specifically were victims of domestic violence and victims of specific ethnic and religious groups.

A number of common or synthesizing themes generated broad agreement among participants in the group discussion, as they reflected upon the summary input from the listening meetings. For example, victim services often appear to be merely an afterthought to the development, scope, and control and ownership of restorative justice initiatives. This lack of inclusion and lack of coalition-building fires significant disappointment in restorative justice policy and practice. These failings also clarify to a significant degree the fault line that exists presently between restorative justice and victim services. Practically, it is manifest in competition for funding and political power, and lack of relevance. It breeds suspicion, skepticism and confusion in the victim community, or worse, reckless restorative justice programming further harms victims.

Participants agreed that the dialogue between restorative justice adherents and the victim community has just begun, and its continuation is vital. It is critically important to develop definitions of restorative justice philosophy, practice and programs that are consistent. Victim-sensitive language is often missing in restorative justice literatures. Similarly, education about restorative justice, including the principles and values upon which it is premised, is vital. Restorative justice might parlay its currency, its political ascendancy and influence, to advocate on behalf of victim interests and needs. Options for victims of violent crime remain desperately needed. And without question, restorative justice must remain vigilante and mindful of its duty to attempt to repair relationships that have been damaged with the victim community.

It is offender based.

It focuses on offenders, it focuses on making them feel better, it focuses on reintegrating them into the community, and the fact that this is ten years later and this project is called "Taking Victims Seriously" says a lot.

It would be very important to me for people who are doing restorative justice to define exactly what they are doing and stop trying to increase credibility by saying "It is about victims." It is not about victims. This is more offender based than anything we have ever seen, so let us call it what it is. Let us define it as an offender program and ask what role victims and the community can play to make it a better program.

One thing that has alarmed me repeatedly is the willingness for practitioners to insert community, or their vision of who represents the community, in place of the victim, saying that meeting the needs of the community would equal meeting the needs of the victim.

An Agenda for Restorative Justice

After careful deliberation on the findings of the listening events and the subsequent analysis and synthesis by a broad representation of study participants, proposals have emerged for preliminary and interrelated actions targeted to restorative justice advocates and the victim community. These are presented in summary format. While their detailed exposition, their priority and a timeline for action are absent here, such gaps are highly suggestive of the future work and opportunity that remain.

With respect to action steps *for restorative justice practitioners and advocates*, it is recommended that they take leadership roles and responsibility for the following ten tasks:

- Continue to engage the victim community and establish ongoing dialogue in all states, including initiatives to conduct local “listening” with the victim community.

- Carefully reconsider the “cookie cutter” approach to a diverse victim community; in particular, reconsider the prospects (opportunities and limits) of restorative justice approaches to victims of domestic violence and sexual assault.

- Re-examine existing restorative justice programming, including the nature of victim participation and consultation, and effectiveness of programs relative to victim needs.

- Pursue matters of peer accountability, appropriate roles, and standards of practice and qualifications of practitioners to maximize positive impacts on the victim community and minimize unintended consequences and harms.

- Mandate training for restorative justice practitioners in victim sensitivity, including education on victim trauma. Training (as well as other forms of technical intervention and assistance) should provide a springboard for collaboration with the victim community and should include meaningful sponsorship by the local victim community, including planning and delivery roles.

- Advocacy for restorative justice programming must go hand-in-hand with rigorous evaluation and demonstrable proof of beneficial possibilities for the victims of crime with minimal risk of further harms. The victim community must be consulted in determining the appropriate evaluation standards and measures of success and harm to be used. The restorative justice community must develop a sensitivity and genuine interest in feedback from the victim community on program impact.

- Renew and invigorate efforts to address the minimal requisite of responsive programming, namely, listening and responding to victim needs.

I think we need to be careful that we do not set victims up to expect an offender to say “I am sorry.” They are not all sorry.

When you are talking about restorative justice, you are talking about restoring justice to a community that for the most part does not believe rape victims, does not believe in crime victims, already thinks they are making it up. If you are talking about going back to community standards, quite honestly community standards around rape are lousy, and the criminal justice process is not much better.

- Work in partnership with the victim community, not in competition, to advocate for the requisite justice resources to respond to victim needs.
- Advocate for victim involvement, control and leadership of programming that intends to address victim needs.
- Carefully delineate between and define restorative justice philosophy and practice, and remain mindful of the need to be very clear about why justice programming should involve victims, and who program initiatives are designed to serve.

A series of action steps are also proposed *for the victim community*, including its practitioners and advocates, suggesting pivotal and catalytic roles in the following six areas:

- Develop guidelines and standards for programming in the victim community, including restorative justice initiatives, that seek to ensure and maximize victim input and impact, and minimize further harms to victims.
- Advocate for restorative justice where it is responsive to and a reflex of victim needs.
- Encourage training and education in the victim community on the philosophy and practice of restorative justice. Take an active and leadership role in training (and other technical interventions and assistance) for restorative justice advocates and practitioners that pertains to working effectively, responsively, and responsibly with the victim community.
- Maintain a high profile in deliberations of programs that affect victims. Participate in efforts to promote statewide and national dialogue about responsive justice approaches to the harms and obligations that flow from crime, as well as local listening initiatives.
- Continually assess, document, and articulate the concerns and needs of victims. Advocate for what victims want, even in new and uncomfortable areas.
- Become more vocal and involved in defining the community role in justice (specifically, the community role in restorative justice), careful to differentiate between what individual victims need, and the larger context of societal harms and needs.

To reiterate, while these items are nominally assigned to either the restorative justice or victim communities of interest and practice, they are nonetheless highly interdependent. At the end of the day, the commonality of this multifaceted agenda is most likely to produce the desired result of effective and responsive justice for victims.

Even though I was a victim I would not have like a process that was not *beneficial to both sides*. I am not interested in a process that is strictly for one side, whoever it is. It would have been a waste of my time.

We cannot have *a truly restorative system of justice* if we are not sensitive to the needs of victims and incorporate those needs into our decisions.



A Conclusion, a Beginning

Five broad areas or themes stood out in the deliberations as opportunities for collaboration between restorative justice advocates and practitioners, victims, victim services personnel, and victim advocates. These ideas involved considerably more discussion than the foregoing action points and proposals, and there was a clear and convincing sense of urgency and primacy to these proposals in particular.

First, structured community dialogue is advocated, the purposes of which are to define terminology, identify program models and promising practices, develop appropriate evaluation criteria, and determine the bases and design of meaningful collaboration between the restorative justice and victim communities. In essence, this action step involves the logical extension of the Listening Project to a more focused effort to resolve differences and find areas of mutual concern and agreement. Additional themes or topics that might be involved in this structured community dialogue include philosophical issues pertaining to the practice of restorative justice, program viability (resources, timelines and outcomes), funding concerns and resource limitations, unintended consequences, myths and misconceptions in these communities about the other, and specific applications of restorative justice to types of crimes and types of victim needs. Such dialogue might involve as well specific identification of restorative justice program initiatives that are failing victims, difficulties in assessing victim needs, and the like. Structured community dialogue might take place at several different levels, in local communities, statewide, or nationally (for example, requiring dialogue involving victim participation in decisions about state and/or federal funding of restorative justice programs).

In response to the need for consideration (prospectively in program planning, or retrospectively in program evaluation) of program impact, a second proposal involves deliberate program feedback. One strategy for providing program feedback might be to make available “teams” comprised of representatives of the victim and restorative justice communities to consult with local areas, at their invitation, about restorative justice programming. In essence, team members with national exposure in their respective areas of expertise (for example, victim services programming or restorative justice program evaluation) would attempt to provide input to local initiatives that is timely and cost-effective. Such feedback might include assisting local programs in developing options suited to their particular needs and resources, while advocating for more universal standards of good practice. A complementary mechanism to promote “feedback” would be the development of assessment tools or instruments designed to facilitate self-evaluations.

A third proposal calls for publication. A consortium, representing a collaboration of both victim and restorative justice communities, might

So many things are labeled restorative justice that a clear definition of exactly what it is continues to be a problem.

Domestic violence is not a conflict that can be mediated, it is not a dispute when you are dealing with someone whose method of dispute resolution is to beat you up if you do not do what he wants. So for victims of domestic violence, this is way out of line. And it is frustrating to spend the kind of time that I have to spend, taking away from other things, to deal with people trying to make this fit. It does not fit.

produce a series of monographs, targeted specifically to the interests and needs of specific groups. These might include the courts and policy makers, as well as the victim community and restorative justice advocates and practitioners. Perhaps the most vital publication need is a tool for practitioners to be used in the field as a guideline to standards, best practices, and “how to” strategies for facilitating local dialogue, program planning, development and implementation, evaluation, and the like.

In response to the articulation of training and education needs in virtually every aspect of the Listening Project deliberations, a fourth proposal is a collaborative approach to training that would become the norm. Experts in the respective victim and restorative justice communities would participate together in all aspects and types of training at the local, state and national levels, including various training opportunities at academies and national conferences. Collaborative training objectives would include mutually clarifying restorative justice goals and values, working through elicitive training models and techniques, exploring myths and perceptions between the victim and restorative justice communities, and the like.

Finally, consistent with the above proposals but in special acknowledgment of its complexities, the articulation of standards was identified as especially worthy of a collaborative approach. Absent such standards of practice, efforts to evaluate restorative justice programs are thought to be meaningless. Time and again, participants expressed concerns about poor and unresponsive practices, even injurious practices, and the very prevalent ambiguities that exist presently about what constitutes restorative programming. The Listening Project has suggested a wide range of possible standards for consideration and implementation, ranging from conditions of victim participation to qualifications of restorative justice practitioners. Efforts to collaboratively propose standards are the next step, as well as further deliberations about ensuring compliance with minimal standards, and the roles of program audits and evaluations in promoting best practice. Strategies for arriving at acceptable standards (successive rounds of structured community dialogue), the possibility of segmenting standards (identifying minimum, preferred and exemplary standards), and the importance of considering the diversity of community settings, needs of victims, and local resources in proposing relevant standards represent only some of the many aspects of this critical piece of remaining work.

The publication of this report on the Listening Project should in no way suggest finality to these discussions, deliberations, and debate. Far from it, the report documents an important and challenging conversation that is only in a fledgling stage of listening. It is a conversation that is in need of amplification, replication, and dogged persistence. The conclusion of this report signals only a transition to another phase, an invitation to collaboratively and respectfully pursue mutual interests in justice for victims. ■

There are so many definitions that it means different things to different people.

I think it is still a philosophy, just like victim services was a philosophy years ago and kind of pie in the sky. We had to educate and get out there in the trenches and get the work done. It is the same for restorative justice.

Endnotes

¹Co-authors. Harry Mika is corresponding author: harry.mika@cmich.edu. This report does not necessarily represent the views of all individuals affiliated in some manner with the Listening Project.

²The listening sessions were facilitated by Mary Achilles (Office of the Victim Advocate, Harrisburg, Pennsylvania), Gordon Bazemore (Florida Atlantic University, Ft. Lauderdale, Florida), Aurelia Sands Belle (Victim Services Consultant, Greensboro, North Carolina), Dave Gustafson (Community Justice Institute, Langley, British Columbia), Ellen Halbert (District Attorney's Office, Travis County, Texas), Dan Van Ness (Prison Fellowship International, Washington, D.C.), and Howard Zehr (Eastern Mennonite University, Harrisonburg, Virginia). Lorraine Stutzman Amstutz (Office on Crime and Justice, Mennonite Central Committee US, Akron, Pennsylvania) served both as a facilitator, and the project director.

³A second activity of Phase I was a photo-documentary of 45 survivors of severe violence that explores how these victims give coherence and meaning to their experiences, their efforts to transcend their trauma, and the role of justice in this process. The photo-documentary was conducted by Howard Zehr (Eastern Mennonite University) and has been published as *Transcending: Reflections of Crime Victims* (Intercourse, PA: Good Books, 2001).

⁴No effort is made here to suggest the frequency of the various types of responses or input. Instead, the report seeks to comprehensively display the entire range of issues and concerns that were given voice in this project. Giving certain weights to some opinions (such as those voiced most frequently) could suppress or minimize or even marginalize the opinions of other equally valid expressions. Similarly, while there are certainly differences among the seven listening sites (such as the size and composition of the group, and familiarity and experience in a given state with restorative justice and/or victim rights and/or victim services), their composite contributions are reflected in this paper. This strategy is more conducive to formulating a comprehensive and general strategy for improving restorative justice relative to victim needs and the involvement of the victim services community.

⁵This high response rate, which ranged between sixty-four and ninety-three percent at individual sites, can only be attributed in part to the survey design. For example, it was a very short survey, coming two to four weeks after the listening meeting, a self-addressed and stamped return envelope was provided, and each participant received a reminder letter about two weeks after the survey was mailed. While these are helpful strategies to encourage participation, they appear in this instance to be less important than two other possibilities. First, participants from the victim community are very devoted to their work, having a strong and common interest in the subject matter (victim needs and aspirations) of the listening session. Second, the proposition that a deliberate effort would be made to listen to the input of the victim community was itself a likely and strong inducement to participate in the project and the survey.

Copies of *A Listening Project* are available from
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